

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

TYRELL LOCKHART,

Defendant.

22-CR-179 (CS)

ORDER

CATHY SEIBEL, District Judge:

On March 17, 2023, Defendant Tyrell Lockhart was sentenced principally to a term of imprisonment of 30 months for his conviction for possession of ammunition by a convicted felon. (ECF No. 30.)

The Probation Department has determined that Defendant is eligible for an adjustment of his sentencing guidelines range based on Amendment 821 to the Sentencing Guidelines. (ECF No. 33.) That Amendment eliminated the provision that applied two criminal history points for committing the instant offense while under supervision for a previous conviction, and was made retroactive pursuant to U.S.S.G. § 1B1.10(d), (e)(2). He has now moved for a sentencing reduction based on that Amendment. (ECF No. 37.)

Defendant's original Sentencing Guidelines range was 24-30 months, based on an offense level of 15 and a criminal history category of III. His Guidelines range would now be 21-27 months, based on an offense level of 15 and a criminal history category of II.

I have considered the record in this case and the factors set forth in 18 U.S.C. § 3553(a), as required by 18 U.S.C. § 3582(c), and conclude that a sentence reduction is not warranted. Defendant's conviction arose out of his firing a gun on a public street. (Presentence Report


(“PSR”) ¶¶ 7-14.) He did so only two months after his release from prison, having previously served a substantial sentence for criminal possession of a loaded firearm. (*Id.* ¶ 31.) He did not comply with his bail conditions. (*Id.* ¶¶ 5-6.) At the sentencing I stated that I had a policy disagreement with the Guidelines range in that they were “way too low” to adequately capture the seriousness of the offense. (ECF No. 32 (“Sent. Tr.”) at 8-9.) I sentenced within the Guidelines range, even though it was “ridiculously low,” because I did not want to upset the expectations of the parties. (*Id.* at 14.) But I said that “to me, this is a four- or five-year offense,” and that Mr. Lockhart was lucky to only get 30 months, (*id.*). I told Mr. Lockhart that he was getting a break, that I truly hoped he meant what he said about changing his life, and that while I would love to be proven wrong, I had serious concerns that he would re-offend. (*Id.* at 17.)

Events since then have only heightened my concerns. In about a year’s time in custody, Mr. Lockhart was not only disciplined for refusing to obey an order, but was also convicted of a new crime, based on his possession of shank in prison.

I thought 30 months was too low and still do. The § 3553(a) concerns I articulated at the sentencing – including the dangerousness of the offense and the needs to promote respect for the law and protect the public from further crimes – remain. (*See* Sent. Tr. at 10-14.) Accordingly, the motion is denied.

SO ORDERED.

Dated: April 3, 2024  
White Plains, New York

  
CATHY SEIBEL, U.S.D.J.